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## Labor Board Ruling May Bar Millions of Workers from Forming Unions, 2006

James Park

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## Labor Board Ruling May Bar Millions of Workers from Forming Unions, 2006

### Abstract

Newspaper article about the National Labor Relations Board's vote to slash federal laws protecting worker's freedom to form unions.


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## Labor Board Ruling May Bar Millions of Workers from Forming Unions

by James Parks, Oct 3, 2006



Vanessa Quinn, a nurse in Kenmore, N.Y., says the labor board's decision is a disaster for nurses.

nurses are supervisors. But the ruling also sets broad definitions for determining who is a supervisor that invites employers to classify nurses and many low-level employees with minor authority as supervisors. The decision was issued Sept. 29 but not released until today.

The board's new definition essentially enables employers to make a supervisor out of any worker who has the authority to assign or direct another and uses independent judgment. Amazingly, the board also ruled that a worker can be classified as a supervisor if he or she spends as little as 10 percent to 15 percent of his or her time overseeing the work of others.

AFL-CIO President John Sweeney calls the decisions "outrageous and unjustified."

The Republican-dominated National Labor Relations Board (NLRB) voted along party lines to slash long-time federal labor laws protecting workers' freedom to form unions and opened the door for employers to classify millions of workers as supervisors. Under federal labor law, supervisors are prohibited from forming unions.

The NLRB ruled on three cases, collectively known as "Kentucky River," but it's the lead case *Oakwood Healthcare Inc.* that creates a new definition of supervisor. Dozens of cases involving the definition of supervisor now before the NLRB will be sent back, with employers having the option to craft arguments that will meet the new definition of supervisor and limit the number of workers who can join a union.

Although the *Oakwood* decision covers only nurses, the expanded definition of supervisors means up to 8 million workers, including nurses, building trades workers, newspaper and television employees and others may be barred from joining unions. In *Oakwood*, the board agreed with the employer that charge

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It's the latest example of how the Bush-appointed NLRB is prepared to use legal maneuvering to deny as many workers as possible their basic right to have a voice on the job through their union. The NLRB should protect workers' rights, not eliminate them. If the administration expects us to take this quietly, they're mistaken.

This week, working people are coming together in the streets in cities across the nation to make sure everyone knows that the Bush administration is slashing workers' right to have a voice on the job.

In their dissent, NLRB members Wilma Liebman and Dennis Walsh say the decision "threatens to create a new class of workers under federal labor law—workers who have neither the genuine prerogatives of management, nor the statutory rights of ordinary employees." Liebman and Walsh wrote that most professionals and other workers could fall under the new definition of supervisor, "who by 2012 could number almost 34 million, accounting for 23.3 percent of the workforce." They go on to say that the Republican majority did not follow what Congress intended in applying the National Labor Relations Act:

Congress cared about the precise scope of the Act's definition of "supervisor", and so should the Board. Instead, the majority's decision reflects an unfortunate failure to engage in the sort of reasoned decision-making that Congress expected from the Board, which has the primary responsibility for developing and applying national labor policy.

This week, thousands of union members and workers' rights activists will rally in Boston, Buffalo, N.Y., Burlington, Vt., Nashville, Portland, Ore., and Washington, D.C., to demand that workers' freedom to form a union is protected.

Currently, the NLRB is holding up dozens of cases that address the definition of supervisor and 60 of those are union election cases. These cases have been sent back to the various regional boards. In some of these cases, workers who voted several years ago to form a union still are waiting for their ballots to be counted. Vanessa Quinn, a member of **Communications Workers of America (CWA) Local 1133** and an emergency room nurse in Kenmore, N.Y., near Buffalo, says expanding the definition of supervisor will be disastrous for nurses:

In Buffalo, recruiting is already a problem. If we can't get young people into nursing, we're in trouble. They need to know they can go into this profession and take care of a family. Without union protection, pay will not be competitive.

AFT and AFT Healthcare in a statement also say the decisions will jeopardize health care:

If nurses and other skilled workers are considered supervisors and lose union protection, they would be extremely reluctant to speak out about patient care problems out of fear of being fired or disciplined.

The ramifications of this case are extremely serious; the decision could have a significant impact on the quality of patient care and workers' rights.

Michael Verbil, a member of **Theatrical Stage Employees (IATSE) Local 412** in

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Sarasota, Fla., and master electrician, says the decisions are an attempt to weaken unions:

Since I've joined the union we've been able to get all of our contracts to include pension and health benefits, which didn't exist before the union. I see this as another push from the government to whittle away at the union's base.

It just doesn't make sense. This could destroy the working conditions we've fought so hard to achieve. We're talking about millions of people who could lose their ability to negotiate with their employer, and that is just wrong.

A group of 13 religious leaders wrote the NLRB last month expressing deep concern over the impending decisions. The letter read in part:

Our religious traditions support workers' right to organize and bargain collectively. We support proposals that expand coverage and access to collective bargaining rather than limit it. We believe that all persons are created in the image of God and as such their work unites them with others and should be endowed with dignity, equality and justice. In the workplace, collective bargaining is the most effective process for workers to express this dimension of their humanity.

Speaking at a Sept. 22 conference on the possible impact of the Kentucky River cases, Rep. Rosa DeLauro (D-Conn.) condemned the NLRB's refusal to conduct oral arguments in these cases:

These decisions could very well change the basic rights of American workers.

Given the stakes, the NLRB needs to be as thorough as possible in hearing testimony. The fact that the NLRB has not held hearings shows that the board is not taking this case as seriously as it should. At the heart of the issue is the right of workers to organize, to bargain collectively and to share in decisions.

Quinn agrees:

We were just asking to be heard, I don't know how you get a fair deal when you can't be heard.

These decisions are just the latest in a string of anti-worker rulings by an agency charged with protecting workers' rights.

The Republican-controlled NLRB already has taken away the rights of university graduate assistants, workers with disabilities and temporary workers to join a union. And the board, which is supposed to protect workers' rights has made a series of consistent rulings backing employers' rights, while ignoring workers' concerns.

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Tags: Kentucky River, Voice@Work, workers' rights, National Labor Relations Board, NLRB, John Sweeney, Communications Workers of America, IATSE

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